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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

4. Hand-Delivery or Courier: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist's desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2011-034-C.

Petitioner: Greenfields Coal Company, LLC, 550 North Eisenhower Drive, Suite B, Beckley, West Virginia 25801.

Mine: Alpheus Refuse Site, MSHA Mine I.D. No. 46-08438, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification of the existing standard to permit the remainder of the openings between the highwall and the mine seal to be backfilled with non-acid producing inert material, as much as practical, without damaging the existing block seals related to previously sealed mine openings associated

with the abandoned Southern Minerals, Inc., Mine No. 1, WV DEP Permit No. U-4008-05, MSHA I.D. No. 46-09236. The petitioner states that:

(1) There are five existing previously sealed mine openings associated with the abandoned Southern Minerals, Inc., Mine No. 10, WV DEP Permit No. U-4008-05, MSHA I.D. No. 46-09236.

Mining was completed in June 2010 and the mine seals were certified by a Registered Professional Engineer on August 31, 2010.

(2) The soil will extend at least 4 feet in all directions beyond the limits of the mine opening. Any exposed coal seam along the mine bench will be covered with soil to at least 4 feet above the seam.

(3) The existing wet seal high-density polyethylene pipe in the far right mine opening will be extended beyond the limits of the course refuse fill maintaining at least 1 percent slope for positive drainage.

(4) The existing mine bench and highwall will be reclaimed with course refuse as detailed in the Refuse Disposal Plan for refuse site WV04-08438-02.

(5) Since the existing mine is abandoned, this plan will provide the same measure of protection for the miners as is given to them by the existing standard.

Docket Number: M-2011-035-C.

Petitioner: West Virginia Mine Power, Inc., P.O. Box 574, Rupert, West Virginia 25984-0574.

Mine: Midland Trail Mine No. 2, MSHA I.D. No. 46-08909, located in Greenbrier County, West Virginia.

Regulation Affected: 30 CFR 75.1101-1(b) (Deluge-type water spray system).

Modification Request: The petitioner requests a modification of the existing standard to eliminate the use of blow-off dust covers for the spray nozzles of a deluge-type water spray system. The petitioner states that:

(1) As an alternative to using the blow-off dust covers, a person trained in the testing procedures specific to the deluge-type water spray fire suppression systems utilized at each belt drive will:

(a) Conduct a visual examination of each of the deluge-type water spray fire suppression systems.

(b) Conduct a functional test of the deluge-type water spray fire suppression systems by actuating the system and watching its performance.

(c) Record the results of the examination and functional test in a book maintained on the surface. The record will be made available to the MSHA representative and retained at the mine for one year.

(2) Any malfunction or clogged nozzle detected will be corrected immediately.

(3) The procedure used to perform the functional test will be posted at or near each belt drive that utilizes a deluge-type water spray fire suppression system.

The petitioner states that the overall safety of the mine and the miners will be improved based on weekly examinations of deluge-type water spray fire suppression

systems at each belt drive. The petitioner asserts that the alternative method will provide a measure of protection equal to or greater than that of the existing standard.

Docket Number: M-2011-036-C.

Petitioner: West Virginia Mine Power, Inc., P.O. Box 574, Rupert, West Virginia 25984-0574.

Mine: Mountaineer Pocahontas Mine No. 1, MSHA I.D. No. 46-09172, located in Greenbrier County, West Virginia.

Regulation Affected: 30 CFR 75.208 (Warning devices).

Modification Request: The petitioner requests a modification of the existing standard to eliminate physically placing a warning device on the last row of permanent mine roof supports. As an alternative, the petitioner proposes to place the warning device on the second row of permanent support outby the last row of permanent support. This will allow at least a 4-foot safety zone for additional protection to the miners required to position themselves in proximity to the last row of permanent roof supports. The petitioner states that:

(1) This placement will aid equipment operators and others “in determining their positions for maximum safety” when they are approaching an unsupported area of the mine roof.

(2) Mine history since 1969 has proven that work in close proximity to the last row of roof bolt support is not always a safe location.

(3) Slickensides, roof slabs, drag folds, and other geological faults whether detectible or undetectable, can and will breach the last row of support.

The petitioner asserts that the overall safety of the mine and the miners will be improved and the proposed alternative method will provide a measure of protection equal to or greater than that of the existing standard.

Patricia W. Silvey
Certifying Officer

Dated: November 4, 2011

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